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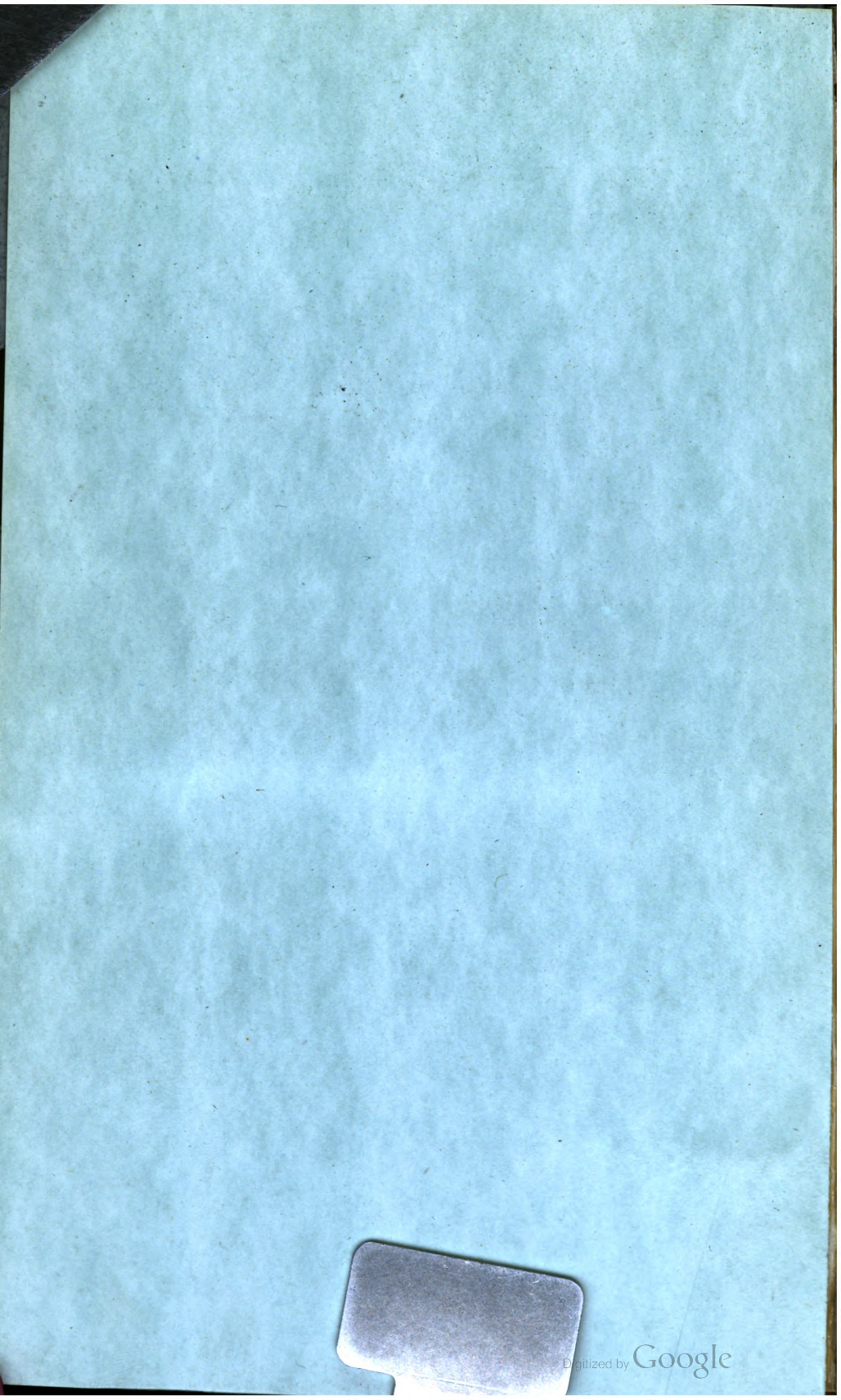
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Massachusetts. Laws, statutes, etc.  
" Income tax law

# MASSACHUSETTS INCOME TAX LAW

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TRUST DEPARTMENT  
NATIONAL SHAWMUT BANK  
40 WATER STREET  
BOSTON

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N27789m

# MASSACHUSETTS INCOME TAX LAW.

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**JUN 1 1916**

## THE MASSACHUSETTS INCOME TAX LAW

### INTRODUCTION

**T**HE recent enactment of the Massachusetts Income Tax Law marks the culmination of a movement to readjust the existing tax laws of the State to present day conditions.

The constitutional principle upon which taxes in the Commonwealth of Massachusetts have been imposed originated at a time when there was little intangible personal property in existence. Until recently *real estate*, including buildings thereon, *tangible personal property*, including household furniture, livestock, jewelry, vehicles, machinery, merchandise, etc., *intangible personal property*, including stocks, bonds, notes, bank deposits, etc., have been taxed locally at the same rate. Income from annuities and the excess above \$2000 of incomes from professions, trades or employments have been taxed at the same rate as property.

Under this system the tax on intangible personal property absorbed a disproportionately large share of the income derived from such property, and resulted not only in the concealment of this form of property, but in the migration of capital from the State.

In order to permit a change in the existing laws, the legislature in 1914 took favorable action upon an amendment to the constitution authorizing the imposition of an income tax. In accordance with the provisions of the State constitution the proposed amendment was referred to the next session of the legislature when it again received favorable action. Thereafter it was submitted to the people and ratified by them on November 2, 1915.



This amendment authorized the legislature to impose income taxes at different rates upon income derived from different classes of property, and also authorized the taxation of income not derived from property at a lower rate than income derived from property.

In 1915 a Special Commission was directed by the legislature to draft a law for the taxation of incomes under the power and authority contained in the constitutional amendment. The law just passed is based upon that drawn by this Commission. This law makes no changes in the method of taxing *real estate* and *tangible personal property*, but it eliminates the old tax on *intangible property* at varying local rate, and substitutes in place thereof a tax on the *income* therefrom uniform throughout the Commonwealth. It also changes the manner of taxation of incomes from annuities and from professions, trades or employments. Adequate provision is made for the enforcement of the law by requiring the making of returns and by the imposition of severe penalties for evading the tax.

It is the purpose of this pamphlet to explain in brief the principal provisions of this Act.

## PART ONE

Every person, regardless of how small his total income may be, is required to make a return under the Act if he receives any income from intangible property (except from tax-exempt intangible property) or if he receives any income in the form of an annuity (except an annuity from trust property) or if his gains from the purchase and sale of securities exceed his losses therefrom. Any person whose total income from all sources exceeds \$2000 is required to make a return, irrespective of the source of his income. The Act applies to trustees, executors, guardians and other fiduciaries as well as to individuals. It also applies to partnerships and voluntary associations. Corporations are, however, not affected, except where acting in a fiduciary capacity.

To Whom  
Law Applies

The Act applies to income received during the calendar year 1916 as well as to income received during succeeding years. Taxes become due on the fifteenth of October of the year following that for which they are assessed.

Under the Act, taxes are levied on income from different sources at the following rates: —

Schedule  
of Rates

- I. Income from intangible property (except when exempt) at six per cent.
- II. Income from annuities, at one and one-half per cent.
- III. Income from professions, employments, trade or business, at one and one-half per cent.
- IV. Income from gains on the sale of securities, at three per cent.

The rates are not progressive as under the Federal Income Tax Law, but are uniform, irrespective of the size of the income of the tax payer.

I.  
TAXATION OF INCOME FROM INTANGIBLE  
PROPERTY

**In General**

In general, the new law substitutes a tax at the uniform rate of six per cent on income from intangibles in place of a tax on principal at the full local rate. Accordingly stocks and bonds which heretofore have been subject to taxation by the city or town where the tax payer resides are now exempt,\* and instead the income from such securities is taxed directly by the Commonwealth; and conversely the income from stocks and bonds which were not subject to taxation under the old law, will be exempt under the new law. In addition to this change in the law, special provision is made in the Act for the taxation of shares of voluntary associations.

Income subject to the six per cent rate includes: —

- (A) Interest.
- (B) Dividends on stock in corporations.
- (C) Dividends on shares in voluntary associations.

No distribution of capital whether in liquidation or otherwise is taxable as income, but accumulated profits are not regarded as capital.

As all income from the above sources is, however, not taxed, it becomes necessary to consider separately income from these different sources.

(A) INTEREST

The six per cent rate applies generally to interest from bonds, notes, money at interest, and all debts due the tax payer.

Interest on deposits in banks is taxed except interest on: —

I. Deposits in Massachusetts Savings Banks.

\*NOTE. — National Banks located in Massachusetts are still required to pay taxes on the shares of their capital stock—stockholders in National Banks will however not be required to pay taxes on dividends received.

**Interest  
on Bank  
Deposits**

2. Deposits in the Massachusetts Hospital Life Insurance Company.
3. Deposits in the Savings Department of any trust company so far as the amount deposited does not exceed in amount the limits imposed upon deposits in Massachusetts Savings Banks.

Income from bonds and notes is taxed with the following exceptions: **Interest on Bonds and Notes**

1. Interest from bonds and notes that are secured exclusively by mortgages of real estate taxable as real estate situated within the Commonwealth of Massachusetts to an amount not exceeding the assessed value of the mortgaged real estate.

This follows the analogy of the previous law, so that in the case of bonds which have heretofore been tax exempt the income therefrom will, under the Act, also be exempt.

2. Interest on all bonds of the United States.
3. Interest on bonds or certificates of indebtedness of the Commonwealth issued after January 1, 1906, and bonds, notes and certificates of indebtedness of any county, fire district, water supply district, light district, watch district or improvement district, city or town in the Commonwealth issued after May 1, 1908, stating on their face that they are exempt from taxation in Massachusetts.

The interest from municipal or state bonds of other states and also the interest from all other Massachusetts State or Municipal bonds except those mentioned is taxable.

Interest received on any other debts due the tax payer is taxable except in the case of loans secured exclusively by mortgages of real estate taxable as real estate situated within the Commonwealth, to an amount not exceeding the assessed value of the mortgaged real estate. **Interest received on other Debts**

## (B) DIVIDENDS ON STOCK IN CORPORATIONS

The six per cent rate applies generally to dividends on shares in corporations and joint stock companies organized under the laws of any state or nation other than Massachusetts.

There are three classes of corporations the dividends on which are not taxable. These are:—

1. Dividends on stock in Massachusetts corporations.
2. Dividends on stock in national banks.
3. Dividends on stock of foreign corporations which are subject to a tax upon their franchises in Massachusetts.

This last exception includes railroad, telegraph, street railway and electric railroad companies having part of their lines in Massachusetts and telephone companies owning or licensing others to use telephones within the State.

## (C) DIVIDENDS ON SHARES IN VOLUNTARY ASSOCIATIONS

The six per cent rate applies to dividends on shares in partnerships, associations or trusts the beneficial interest in which is represented by transferable shares.

**When Exempt**

Primarily all such dividends are taxable. In this respect the Act makes a distinct departure from the previous law. However, voluntary associations owning certain kinds of property may render their shares exempt by filing with the Tax Commissioner an agreement that they will themselves pay to the Commonwealth such taxes as are imposed under the Act upon individuals (see page 17).

It will not be safe to assume however, that the shares in any voluntary association are exempt without first ascertaining whether it has in fact filed such an agreement.

## DEDUCTIONS ALLOWED FROM INCOME FROM INTANGIBLES

From the amount of gross income from intangibles no deduction is allowed except for interest paid. Interest

Under the old law a person was only taxable (with certain qualifications) on his *net* indebtedness — that is to say, he was only taxed upon debts due him so far as the amount thereof exceeded the amount for which he was himself indebted or paid interest.

The new law does not limit the tax payer to deducting the interest paid by him from interest received by him on debts due him, as he may deduct interest paid by him from any income taxable at the six per cent rate. On the other hand, he is not allowed to deduct all interest paid by him, but may only deduct a certain fraction thereof. Specifically, the law allows him to deduct from income taxable at the six per cent rate such an amount of interest paid by him during the year as shall bear the same proportion to the "*net interest*" paid as the amount of such income bears to his "*total net income*." Determina-  
tion of  
Amount  
Deductible

The determination of the exact amount which may be deducted promises to be complicated in some cases, for it is first necessary for a tax payer to determine the "*net interest*" paid by him during the year and the amount of his "*total net income*" during the year.

The determination of "*net interest*" depends upon the nature of the business of the tax payer. "Net  
Interest"

(a) Persons engaged in the business of buying, selling or otherwise dealing in intangible personal property, provided that such business, if it includes other classes of dealings, does not include buying, selling, improving or otherwise dealing in or with real estate or buying, selling, manufacturing or otherwise dealing in or with tangible personal property.

In the case of such persons "*net interest*" means interest paid on all debts except those secured by mortgage or pledge of real estate or tangible personal property.

(b) All other persons.



In the case of all other persons "net interest" means interest paid on all debts except (1) debts secured by mortgage or pledge of real estate or tangible personal property and except (2) debts on account of which the tax payer is entitled to claim a deduction in computing his taxable income from his profession, employment, trade or business.

The determination of "net interest" is further complicated by a provision that no deduction shall be made in respect of interest belonging to either of these classes which arises from loans or open accounts directly or indirectly secured by intangible personal property except to an amount not exceeding eighty per cent of the income returned by the tax payer for taxation at the six per cent rate on account of intangible personal property which secured such loans or open accounts. For example, if a loan was secured solely by tax exempt securities or non-dividend paying stocks, no deduction could be claimed for interest paid thereon.

**"Total net income"**

In determining "*total net income*" there shall not be included income from annuities, professions, employments, trade and business or the income from the purchase and sale of securities. "Total net income" must also be computed as if no deduction were made for interest paid during the year.\*

**How Claimed**

In order to claim the benefit of the interest deduction and to enable the Tax Commissioner to verify the amount claimed, a tax payer must file a return of his entire income from all sources, together with such other information as the Tax Commissioner may deem necessary for the determination of the amount of such deduction. The Tax Commissioner may, however, in lieu of such return accept a sworn duplicate of the annual return of income made under the Federal Income Tax Law, and he may also in cases where he shall deem it necessary require the tax payer to file such sworn duplicate.

**Exemption**

A person whose total income from all sources does not

\*NOTE. — The Act fails to specify what other deductions, if any, for expenses, losses, taxes, depreciation, etc., shall be allowable in computing "total net income." It is not unlikely that the Tax Commissioner will make regulations covering this point.

exceed \$600 during the year preceding that in which the tax is assessed shall have an exemption of \$300 of that part of his income derived from intangibles which is liable to taxation.

## II.

### TAXATION OF INCOME FROM ANNUITIES

Income from an annuity is taxed at the rate of one and **Rate**  
one-half per cent per annum.

Persons receiving annuities are entitled to the same exemp- **Exemption**  
tion as those receiving income from securities, namely, \$300  
if their total income from all sources does not exceed \$600.  
No person shall, however, be entitled to more than a \$300  
exemption on both classes of income.

The act provides that where property is held in trust the **Annuity**  
income therefrom shall not be exempt from the six per cent **from Trust**  
tax, nor shall payments to beneficiaries be taxed at the one **Property**  
and one-half per cent rate because of the fact that the whole  
or any part of the payments to the beneficiaries is in the form  
of an annuity. Accordingly where the annuity is derived  
from securities which are held in trust and the income of  
which is taxable at six per cent, the six per cent rate governs,  
rather than the one and one-half per cent rate.

## III.

### TAXATION OF INCOME FROM PROFESSIONS, EMPLOYMENTS, TRADE OR BUSINESS

The excess above \$2000 of income derived from professions, **Rate**  
employments, trade or business is taxed at the rate of one  
and one-half per cent per annum. Heretofore the excess over  
\$2000 of such income has been taxable locally at the same  
rate as real estate by the city or town where the taxpayer  
resided, but very little effort was made to assess the tax.

**Gains from  
Sale of  
Capital  
Assets**

In determining such income there shall be included gains from the sale of capital assets, other than intangible personal property, employed in the profession, employment, trade or business.

**Rental  
Value of  
Living-  
Quarters**

There shall also be included the rental value of living quarters furnished any individual as part of his compensation.

**Federal  
Employees**

The wages and salaries of employees and officers of the United States government are not taxed; but if they receive other income from any profession, employment, trade or business, that part of such other income shall be taxed which when added to the amount of the wages or salary received from the government shall be in excess of \$2000.

**Other Income  
not Taxed**

Interest and dividends taxable at the six per cent rate are not also taxed at the one and one-half per cent rate. The same is true of income derived from any kind of property which was not subject to taxation under the old law. There is also a special provision that income from forest lands, classified under Chapter 598 of the Acts of 1914, shall not be taxed.

**Income from  
Real Estate**

Apparently rentals from leased real estate are exempt because not derived from trade or business in the ordinary sense. When real estate, instead of being leased, is employed in the tax payer's profession, employment, trade or business a special deduction is allowed under clause (g) below.

#### DEDUCTIONS ALLOWED FROM INCOME FROM PROFESSIONS, TRADE, ETC.

In computing the amount of taxable income under this part of the Act the following deductions may be made:

**Expenses**

(a) Expenses paid within the year in the profession, employment, trade or business, including the cost of ordinary repairs but not including personal or family expenses; *provided*, that premiums paid for use and occupancy insurance, or rent insurance, shall not be deducted as part of such expenses.

(b) A reasonable allowance for the depreciation and obsolescence of property within the year, and for the depletion within the year of wasting assets owned by the person taxed and used in the profession, employment, trade or business; *provided*, that with the approval of the Tax Commissioner a tax payer may, in lieu of the aforesaid allowance for depreciation and obsolescence, be allowed to deduct actual expenses of replacement of capital and extraordinary repairs, and with such approval may in any year defer such deductions in whole or in part to one or more subsequent years.

Depreciation,  
etc.

(c) All taxes paid within the year to the United States or any other nation, or to any state, county, city, town or district, in respect of the profession, employment, trade or business, or the property held or used in connection therewith, but not including assessments for betterments.

Taxes

(d) Interest paid within the year on indebtedness of the person taxed incurred in connection with his profession, employment, trade or business; but no interest allowed as a deduction from income from intangibles shall also be allowed under this heading.

Interest

(e) Losses from the sale within the year of capital assets other than intangible personal property and losses sustained within the year by fire, theft or other casualty, or amounts paid within the year on account of claims in tort or contract incurred in connection with the profession, employment, trade or business, when not compensated for by insurance or otherwise.

Losses

(f) The amount of any debts receivable arising from the conduct of a profession, employment, trade or business subsequent to December thirty-first, nineteen hundred and fifteen, determined by the person taxed to be worthless and actually charged off during the year; but no debts receivable as income shall be so charged off and

Bad Debts

**5% of Value  
of Tangible  
Property**

deducted, unless they have previously been included as income in a return made under the Act.

(g) An amount equal to five per cent of the assessed value of the stock in trade and other tangible property, real and personal, owned by the person taxed and used or employed in the profession, employment, trade or business within or without the Commonwealth, on the day as of which such property is assessed in the year for which the income is computed. In case any such stock in trade or other tangible property located without the Commonwealth is taxed in respect of its income, and not in respect of its capital value, by the taxing district in which it is located in such year, the Tax Commissioner may determine its value in any other manner, and may allow a deduction of an amount equal to five per cent of the value so determined.

**Exemptions**

As already noted, the tax is only upon the excess over \$2000. In addition, there may be deducted the sum of \$500 for a husband or wife with whom the tax payer lives, and the sum of \$250 for each child under the age of eighteen years, or parent entirely dependent for support upon the person making the return. These latter deductions cannot be made by both husband and wife, but may be made by either, as they shall mutually agree, or shall be pro-rated between them in proportion to the net income of each in excess of \$2000. In no case may the total deduction on account of husband and wife and children and parents exceed \$1000.

#### IV.

#### TAXATION OF PROFITS FROM SALE OF SECURITIES

**In General**

The Act imposes a tax of three per cent per annum upon the excess of the gains over the losses received by the tax payer from purchases or sales of intangible personal property. It is immaterial whether or not the tax payer is engaged in the business of dealing in such property.

In the case of trustees or other fiduciaries this tax shall be paid when the trust is terminated unless the trustee chooses to include such tax in any previous annual return. In the case of trusts that continue for more than five years, however, such excess if not previously returned must be included in the return of taxable income at least in every fifth year. When the tax is paid by the trustee he may charge the same against principal.

**Trustees  
and other  
Fiduciaries**



**PART TWO**

**TAXATION OF ESTATES OF DECEASED PERSONS,  
OF PROPERTY HELD IN TRUST AND OF  
PARTNERSHIPS**

**Trust  
Property**

Special provision is made covering all these cases.

In the case of property held in trust a very important change is made in the law. Heretofore resident trustees have been taxed upon the value of property held by them in trust irrespective of whether the beneficiaries of the trust resided within or without the Commonwealth. On the other hand, if the property was held under a testamentary trust by a trustee who was not an inhabitant of the Commonwealth no tax was imposed upon a beneficiary residing within the Commonwealth provided the property was legally taxed to the trustee in the state where the latter resided.

Under the new law the above theory is practically reversed. That is to say, such part of the income of intangible personal property held in trust as is payable to or accumulated for persons who are not inhabitants of the Commonwealth shall be exempt from the tax imposed by the Act. On the other hand, if an inhabitant of the Commonwealth receives income from one or more executors, administrators or trustees, none of whom is an inhabitant of the Commonwealth or has derived his appointment from a court of the Commonwealth, such income shall be subject to the tax assessed by the Act according to the nature of the income received by the executors, administrators or trustees.

Provision is made whereby an executor, administrator or trustee may, on behalf of a beneficiary, claim the benefit of any exemptions to which the latter is entitled.

**Partnerships**

In the case of partnerships the taxes are collected from the firm and not from the individual partners, except in the case of an inhabitant of Massachusetts who is a member of a partnership having no usual place of business in the Commonwealth. Where all the partners are not inhabitants of

the Commonwealth, only so much of the income of the firm as is proportionate to the aggregate interest of the partners who are inhabitants of the Commonwealth in the profits of the firm shall be taxed. Provision is made for a partnership to claim, on behalf of the individual partners, the exemptions to which the latter are entitled.

The provisions relative to ordinary partnerships do not apply to partnerships the beneficial interest in which is represented by transferable shares, special provision being made for the taxation of such partnerships and other voluntary associations.

### TAXATION OF VOLUNTARY ASSOCIATIONS

. Where the dividends on the shares in a voluntary association are taxable at the six per cent rate to the owners of such shares, the voluntary association itself is not taxed upon any class of income received by it, whether such income is derived from intangibles or from the carrying on of trade or business or otherwise.

**Taxation of  
Voluntary  
Associations**

As primarily the dividends on such shares are taxable to the recipients thereof, it follows that primarily, voluntary associations are not required to pay taxes under the Act.

However, certain voluntary associations, as heretofore stated, may render their shares exempt if they file with the Tax Commissioner an agreement that they will themselves pay to the Commonwealth such taxes as are imposed by the Act on individuals. Voluntary associations may do this where their property consists exclusively of one or more of the following kinds of property, to wit:

- (a) Real estate, wherever situated, and supplies therefor and receipts therefrom.
- (b) Stocks of corporations taxable under the provisions of Acts of 1909, Chapter 490, Part III, Sections 43 and 52 and Acts in amendment thereof. (This refers to stock

in Massachusetts corporations and to stock in such foreign public service companies as pay franchise taxes here.)

(c) Bonds, notes, loans secured by mortgage of real estate, and certificates of indebtedness the income of which is exempt from taxation.

(d) Property the income of which, if any, would be taxable at the 6 per cent rate, if owned by an inhabitant of the Commonwealth.

(e) Shares in other voluntary associations the dividends on which are exempt.

Voluntary associations whose property does not consist exclusively of the above may also render their shares exempt if they file such an agreement and also furnish proof that two-thirds at least of their taxable property is taxed within the Commonwealth and that the remainder, if taxable, is taxed where situated.

In order to render the dividends on its shares exempt, it is thus necessary for the association itself to pay taxes on its income so far as the same is taxable. Therefore it will not be safe to assume that an association which is qualified to file such an agreement will necessarily do so. Generally speaking, however, it is to be expected that where a considerable portion of the shareholders of a voluntary association are residents of the Commonwealth, it will, if it is possible for it to do so, take the necessary steps to render its dividends exempt.

## RETURNS

On or before the first of March, 1917, and the first of March in each year thereafter, sworn returns must be filed either with the State Tax Commissioner or the local Income Tax Assessor by every person, partnership, association or trust that receives income taxable at the six per cent rate, or that receives income taxable as an annuity at the one and one-half per cent rate, or income from the sale of securities taxable at the three per cent rate, the return to be of such taxable income.

Persons  
Whose In-  
come is Less  
than \$2000

If the income received from all sources exceeds \$2000 the return must, however, set forth the entire income of the tax payer except income derived from

**Persons  
Whose In-  
come is over  
\$2000**

- (a) Real estate,
- (b) Dividends exempt from taxation under the Act,
- (c) Interest upon bonds and other obligations of the United States,
- (d) Interest upon Massachusetts state and municipal bonds which are tax exempt,
- (e) Loans secured exclusively by mortgages of real estate taxable as real estate situated within the Commonwealth to an amount not exceeding the assessed value of the mortgaged real estate,
- (f) Wages or salaries received from the United States.

In addition, if the tax payer claims any deduction from income taxable at the six per cent rate on account of interest paid, he must, as already explained, file a return of his income from all sources, together with such other information as the Tax Commissioner may deem necessary for the determination of the amount of such deduction. The Tax Commissioner may in lieu of such return, however, accept a sworn duplicate of the annual return of income made under the Federal Income Tax Law.

**Return of  
Income from  
All Sources**

There is also a provision regarding the filing of a separate return of taxable tangible personal property. This provision is that a tax payer who in the year 1917 fails to bring in a list of taxable personal estate shall be assessed in that year for an amount of personal estate not less than that for which he was taxed in the year 1916. For example, suppose a person to have been taxed for the year 1916 on tangible personal property including furniture, merchandise, jewelry, etc., worth \$5000 and on taxable securities worth \$10,000. If he should file a return for the year 1917 of his tangible personal property at a valuation of \$5000, he would only be taxed at

**Return of  
Tangible  
Personal  
Property**

the full local rate on \$5000. If he neglected to do so, he would be so taxed on \$15,000. In either case he would have to pay an income tax on the income derived from the intangible property.

**Penalties**

Severe penalties are imposed for failure to file returns or for the making of fraudulent returns.

**METHODS OF DETERMINING TAXABLE INCOME**

In order to avoid the embarrassment which arose under the Federal Income Tax Law due to the fact that persons under that law are required to make returns on a cash basis irrespective of how they keep their books, it is provided that persons who customarily estimate their income and expenditure on a basis other than that of actual cash receipts and disbursements may, with the approval of the Tax Commissioner, compute upon a similar basis their income taxable under the Act. There is also a provision for determining gains or losses realized from the sale of capital assets acquired prior to January 1, 1916, to the effect that in such case the value of the property on that date shall be the basis of determination.

**DISTRIBUTION OF TAXES**

In the matter of distribution of the taxes collected under the Act among the various cities and towns of the Commonwealth, the Act merely undertakes to provide for the year 1917, leaving the future disposition of the revenue to the determination of subsequent legislatures. It was felt by the framers of the law that this question could best be settled after the law had gone into operation and it was known exactly how much revenue it would yield. The bill provides in substance that for the year 1917 the revenue shall be distributed in such a manner as to maintain the *statu quo*.

This is accomplished by requiring the Commonwealth to pay to each city or town such an amount as will substantially make up for the loss of revenue occasioned by the exemption of intangible personal property from local taxation by the cities or towns. If the amount of taxes collected by the

Commonwealth from incomes shall exceed the sum necessary to make such payments, the Commonwealth shall retain enough money to pay the cost of administering the law and the balance shall be distributed among the several cities or towns in proportion to the amount of the state tax imposed upon each of them in 1917.

It is expected that the legislature of 1918, with a full knowledge of the revenue derived from the income tax and the amount of personal property subject to taxation will be able to deal wisely and justly with the question of the ultimate disposition of the revenue from the income tax.

### MISCELLANEOUS

The Tax Commissioner may from time to time make rules and regulations under the Act. **Rules and Regulations**

Improper disclosure by the Tax Commissioner or any deputy, assistant, etc., of information contained in the returns is forbidden. **Inspection of Returns**

The following special returns are required to be made on or before the first of March of each year. The Tax Commissioner may, however, authorize such returns to be made at any other date and in connection with any other reports or returns that are required to be filed with him. **Information at the Source**

- (a) Employers must file a return of the names and addresses of employees to whom wages, salaries, etc. in excess of \$1800 are paid.
- (b) Corporations and voluntary associations doing business in Massachusetts, whose dividends are taxable, must file returns of the names and addresses of shareholders as of December 31 (or of any other date with the permission of the Tax Commissioner) or in their discretion of such shareholders as are residents of Massachusetts.



- (c) All corporations and voluntary associations doing business in Massachusetts are required to file returns of the names and addresses of residents of the Commonwealth to whom interest payments have been made upon bonds, notes or other evidences of indebtedness, or to whom annuities have been paid during the preceding year, except interest coupons payable to bearer and income exempt from taxation under the act.

**Bonds  
Registered  
under  
Bond  
Registration  
Act.**

Section 29 relating to bonds registered under chapter 761 of the Acts of 1914 is likely to be repealed by the present legislature, in which case it is probable that the registration of bonds in 1916 will not affect the tax to be levied in 1917 on income received during the year 1916.

The full text of the law follows.

## AN ACT

To impose a Tax upon the Income received from Certain Forms of Intangible Property and from Trades and Professions.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. There shall be levied in the year nineteen hundred and seventeen, and in each year thereafter, a tax upon incomes as hereinafter set forth.

### TAXATION OF INCOME DERIVED FROM CERTAIN INTANGIBLES.

SECTION 2. Income of the following classes received by any inhabitant of this commonwealth during the calendar year prior to the assessment of the tax shall be taxed at the rate of six per cent per annum:

(a) Interest from bonds, notes, money at interest and all debts due the person to be taxed, except from:

First: Deposits in any savings bank chartered by this commonwealth or in the Massachusetts Hospital Life Insurance Company, or such of the deposits in the savings department of any trust company so chartered as do not exceed in amount the limits imposed upon deposits in savings banks by section forty-six of chapter five hundred and ninety of the acts of the year nineteen hundred and eight, and acts in amendment thereof and in addition thereto.

Second: Bonds of the United States and such bonds, notes and certificates of indebtedness of the commonwealth and of political subdivisions thereof as are exempt from taxation under the provisions of clause fifteen of section five of Part I of chapter four hundred and ninety of the acts of the year nineteen hundred and nine, and acts in amendment thereof and in addition thereto.

Third: Loans secured exclusively by mortgages of real estate, taxable as real estate, situated within the commonwealth, to an amount not exceeding the assessed value of the mortgaged real estate.

(b) Dividends on shares in all corporations and joint stock companies organized under the laws of any state or nation other than this commonwealth, except national banks and except such foreign corporations as are subject to a tax upon their franchises payable to this commonwealth under the provisions of sections forty-three and fifty-two of Part III of chapter four hundred and ninety of the acts of the year nineteen hundred and nine, and acts in amendment thereof and in addition thereto.

(c) Dividends on shares in partnerships, associations or trusts, the beneficial interest in which is represented by transferable shares, except dividends on shares of the following:

First: Partnerships, associations or trusts, which file with the tax commissioner the agreement hereinafter provided for, and the property of which consists exclusively of one or more of the following specified kinds of property, to wit: real estate wherever situated and supplies therefor and receipts therefrom; stocks of corporations taxable under the provisions of sections forty-three and fifty-two of Part III of chapter four hundred and ninety of the acts of the year nineteen hundred and nine and acts in amendment thereof and in addition thereto; bonds, notes, loans secured by mortgage of real estate, and certificates of indebtedness, the income of which is exempt from taxation under the provisions of this section; property the income of which, if any, would be taxable under this section if owned by an inhabitant of the commonwealth; shares in partnerships, associations or trusts, dividends on which are exempt from taxation under this section.

Second: Partnerships, associations or trusts, the beneficial interest in which is represented by transferable shares, which file such agreement and furnish satisfactory proof to the tax commissioner that two thirds, at least, of their taxable property is taxed within the commonwealth and that the remainder, if taxable, is taxed where it is situated.

Partnerships, associations or trusts, the dividends on shares of which are exempt from taxation under this section, shall pay to the tax commissioner annually a tax of six per cent of the income derived from any property owned by such partnerships, associations or trusts, so far as such income would be taxable under this section if received by an inhabitant of the commonwealth.

Dividends on the shares of any partnership, association or trust, of the classes designated in paragraphs first and second of subsection (c) of this section shall be subject to taxation under this section unless the trustees or managers of such partnership, association or trust shall file with the tax commissioner, in such form as he shall determine, its agreement to pay to the commonwealth annually the tax imposed by the preceding paragraph and any tax imposed by section five of this act. In case of any breach of the terms of any such agreement, the same may be enforced by information in equity to be brought by the attorney-general at the relation of the tax commissioner in the supreme judicial court for the county of Suffolk. This remedy shall be in addition to all other means of collection provided by this act, and to the penalties hereinafter imposed.

For the purposes of this act any securities of the classes designated in this section, held in pledge, or on margin or otherwise, by an agent or broker as security for a debt of his principal, whether such securities stand in the name of the principal or of any other person, shall be deemed to be the property of the principal, and the income arising therefrom shall be included in the total income of the principal under this section.

No distribution of capital, whether in liquidation or otherwise, shall be taxable as income under this section; but accumulated profits shall not be regarded as capital under this provision.

#### DEDUCTIONS ALLOWED.

SECTION 3. From the income taxable under section two of this act the taxpayer may, under the conditions prescribed in this section and in section seven, receive a deduction on account of interest paid by him during the year on debts of the following classes:

(a) Debts, except those secured by mortgage or pledge of real estate or tangible personal property, owed by persons engaged in the business of buying, selling, or otherwise dealing in intangible personal property, provided that such business, if it includes other classes of dealings, does not include buying, selling, improving or otherwise dealing in or with real estate or buying, selling, manufacturing or otherwise dealing in or with tangible personal property.

(b) Debts owed by other persons, except debts secured by such mortgage or pledge and debts on account of which the taxpayer is entitled to claim a deduction under sections five and six.

In determining as hereinafter provided the deduction authorized in the preceding paragraph, no deduction shall be allowed in respect of interest upon any debt belonging to either class (a) or class (b) above enumerated which arises from loans or open accounts directly or indirectly secured by intangible personal property, except to an amount not exceeding eighty per cent of the

income returned by the taxpayer for taxation under section two on account of intangible personal property which secured such loans or open accounts.

The said deduction shall be determined in the following manner:

A taxpayer who claims the benefit of the said deduction shall file with the tax commissioner or the income tax assessor of his district a return, in such form as the tax commissioner shall from time to time prescribe, of his entire income from all sources, together with such other information as the tax commissioner may deem necessary for the determination of the amount of said deduction. The tax commissioner may, in lieu of such return, accept a sworn duplicate of the annual return of income made under the provisions of the act of congress of the United States, approved October third, nineteen hundred and thirteen, and acts in amendment thereof and in addition thereto; he may also, in any case where he shall deem it necessary, require the taxpayer to file such a sworn duplicate.

From the said return and information the tax commissioner or the income tax assessor shall determine the amount of interest paid during the year by the taxpayer on debts of classes (a) or (b) above enumerated, for which deduction is authorized by this section, which interest for the purpose of this section shall be called the net interest. He shall also determine the total net income of the taxpayer, exclusive of income taxable under section five, as such total net income would be if no deduction were made for interest paid during the year. The taxpayer may deduct from his income taxable under section two an amount of interest paid by him during the year which shall bear the same proportion to the net interest paid as his income taxable under section two bears to his total net income as above determined.

A partnership, association or trust, the beneficial interest in which is represented by transferable shares, paying to the commonwealth a tax upon income subject to taxation under section two of this act, as provided in said section, may receive the deduction authorized by this section on the same terms as an individual inhabitant.

Any person filing a fraudulent return or giving fraudulent information to the tax commissioner or the income tax assessor under this section, shall be subject to the penalties set forth in section thirteen of this act in the case of fraudulent returns.

#### EXEMPTION.

SECTION 4. A person whose total income from all sources does not exceed six hundred dollars during the year preceding that in which the tax is assessed shall have an exemption of three hundred dollars of that part of his income which is liable to taxation under section two of this act.

#### INCOME FROM ANNUITIES, PROFESSIONS, EMPLOYMENTS, TRADE AND BUSINESS.

SECTION 5. Income of the following classes received by any inhabitant of this commonwealth, during the calendar year prior to the assessment of the tax, shall be taxed as follows:

(a) Income from an annuity shall be taxed at the rate of one and one half per cent per annum. The income of property held in trust shall not be exempted from taxation under section two nor shall payments to beneficiaries be taxed under this section, because of the fact that the whole or any part of the payments to the beneficiaries is in the form of an annuity. A person whose total income from all sources does not exceed six hundred dollars during the year

preceding that in which the tax is assessed shall have an exemption of three hundred dollars of that part of his income which is liable to taxation under this paragraph; *provided, however*, that no person shall have exemptions under this paragraph and under section four exceeding in all three hundred dollars of income.

(b) The excess over two thousand dollars of the income, as defined in section six, derived from professions, employments, trade or business shall be taxed at the rate of one and one half per cent per annum. In determining such income the rental value of living quarters furnished any individual as part of his compensation shall be included. The wages and salaries of employees and officers of the United States government shall not be taxed; but if such employees and officers receive other income taxable under this section, that part of such other income shall be taxed which, when such other income is added to the amount of the wages or salary received as an employee or officer of the United States government, shall be in excess of two thousand dollars.

(c) The excess of the gains over the losses received by the taxpayer from purchases or sales of intangible personal property, whether or not the said taxpayer is engaged in the business of dealing in such property, shall be taxed at the rate of three per cent per annum; *provided*, that in the case of intangible personal property held by trustees or other fiduciaries, the said excess shall be determined and the tax imposed by this section shall be assessed by the tax commissioner or income tax assessor and the tax shall be paid, at the time when such trust is terminated, but such trustee or other fiduciary may at his option include the said excess in any return of income made prior to the termination of the trust, and the tax shall be assessed and paid as of the year in which the return is made. In the case of trusts that continue for more than five years, the said excess, if not previously returned, shall be included in a return of taxable income at least in every fifth year, and the tax shall be assessed and paid as of the year in which the return is made. Any such trustee or other fiduciary may charge any taxes paid under this paragraph against principal in any accounting which he makes as such trustee.

Income of the classes enumerated in paragraphs (a), (b) and (c) of this section received by any partnership, association or trust, the beneficial interests in which are represented by transferable shares, shall be taxed under this section to the same extent as if the partnership, association or trust were an individual inhabitant of this commonwealth, unless the dividends on the transferable shares issued by such partnership, association or trust are taxable under the provisions of section two.

Interest and dividends taxable under section two of this act shall not be taxed under this section; and income derived from property not subject to taxation under chapter four hundred and ninety of the acts of the year nineteen hundred and nine and acts in amendment thereof and in addition thereto, and also income derived from forest lands classified under chapter five hundred and ninety-eight of the acts of the year nineteen hundred and fourteen, shall not be taxed under this act.

#### DETERMINATION OF TAXABLE INCOME FROM PROFESSION, EMPLOYMENT, TRADE OR BUSINESS.

SECTION 6. Income taxable under paragraph (b) of section five of this act shall be the gross income from the profession, employment, trade or business, including gains from the sale of capital assets, other than intangible personal property, employed therein, less the following deductions:

(a) Expenses paid within the year in the profession, employment, trade or business, including the cost of ordinary repairs but not including personal or family expenses; *provided*, that premiums paid for use and occupancy insurance, or rent insurance, shall not be deducted as part of such expenses.

(b) A reasonable allowance for the depreciation and obsolescence of property within the year, and for the depletion within the year of wasting assets owned by the person taxed and used in the profession, employment, trade or business; *provided*, that with the approval of the tax commissioner a taxpayer may, in lieu of the aforesaid allowance for depreciation and obsolescence, be allowed to deduct actual expenses of replacement of capital and extraordinary repairs, and with such approval may in any year defer such deductions in whole or in part to one or more subsequent years.

(c) All taxes paid within the year to the United States or any other nation or to any state, county, city, town or district, in respect of the profession, employment, trade or business, or the property held or used in connection therewith, but not including assessments for betterments.

(d) Interest paid within the year on indebtedness of the person taxed incurred in connection with his profession, employment, trade or business; but no interest allowed as a deduction under section three of this act shall also be allowed under this section.

(e) Losses from the sale within the year of capital assets other than intangible personal property and losses sustained within the year by fire, theft or other casualty, or amounts paid within the year on account of claims in tort or contract incurred in connection with the profession, employment, trade or business, when not compensated for by insurance or otherwise.

(f) The amount of any debts receivable arising from the conduct of a profession, employment, trade or business subsequent to December thirty-first, nineteen hundred and fifteen, determined by the person taxed to be worthless and actually charged off during the year; but no debts receivable as income shall be so charged off and deducted, unless they have previously been included as income in a return made under this act.

(g) An amount equal to five per cent of the assessed value of the stock in trade and other tangible property, real and personal, owned by the person taxed and used or employed in the profession, employment, trade or business within or without the commonwealth, on the day as of which such property is assessed in the year for which the income is computed. In case any such stock in trade or other tangible property located without the commonwealth is taxed in respect of its income, and not in respect of its capital value, by the taxing district in which it is located in such year, the tax commissioner may determine its value in any other manner, and may allow a deduction of an amount equal to five per cent of the value so determined.

(h) The sum of five hundred dollars for a husband or wife with whom the taxpayer lives, and the sum of two hundred and fifty dollars for each child under the age of eighteen years, or parent entirely dependent for support upon the person making the return. The aforesaid deduction shall not be made by both husband and wife, but may be made by either as they shall mutually agree, or shall be prorated between them in proportion to the net income of each in excess of two thousand dollars. In no case shall the total deduction on account of husband and wife, and children and parents, exceed one thousand dollars.

(i) Income of the classes specified in the last paragraph of section five.

#### METHODS OF DETERMINING TAXABLE INCOME.

SECTION 7. Persons who customarily estimate their income and expenditure on a basis other than that of actual cash receipts and disbursements may, with the approval of the tax commissioner, compute upon a similar basis their income taxable under this act. In determining the gains or losses realized from the sale of capital assets, the value on January first, nineteen hundred and sixteen, of such property owned on that date shall be the basis of determination, and in case property is acquired after January first, nineteen hundred and sixteen, the value on the date that it is acquired shall be the basis of determination.

#### ESTATES OF DECEASED PERSONS.

SECTION 8. The income received by persons since deceased shall be taxed to their estates. The income received by estates of deceased persons who last dwelt in this commonwealth shall be subject to the taxes assessed by this act, to the extent that the persons to whom such income is payable or for whose benefit it is accumulated are inhabitants of this commonwealth, which shall be assessed to the executor or administrator, and before the appointment of an executor or an administrator such taxes shall be assessed in general terms to the estate of the deceased, and the executor or administrator subsequently appointed shall be liable for the tax so assessed as though assessed to him: *provided*, that no person shall be taxed under the provisions of this act for income received from any executor or administrator which income has itself been taxed under the provisions of this section; and *provided*, that an executor or administrator who has given due notice of his appointment, and who has filed an inventory within nine months thereafter, shall not be obliged to pay any tax hereunder except upon income received by him or income of his decedent with respect to which he is required to make a return hereunder, unless the same shall be assessed within one year after his giving bond for the performance of his trust. If the inventory shall not have been filed within the said nine months, the executor or administrator shall be obliged to pay any taxes that may be assessed hereunder within three months after the filing of the inventory.

The provisions of this act with reference to the taxation of income received by trustees shall, so far as apt, and except as otherwise provided herein, apply to the income received by executors and administrators.

#### PROPERTY HELD IN TRUST.

SECTION 9. The income received by estates held in trust by trustees, any one of whom is an inhabitant of this commonwealth or has derived his appointment from a court of this commonwealth, shall be subject to the taxes assessed by this act to the extent that the persons to whom the income from the trust is payable, or for whose benefit it is accumulated, are inhabitants of this commonwealth. The tax shall be assessed to such of the trustees as are inhabitants of the commonwealth.

Such part of the income of intangible personal property held in trust as is payable to or accumulated for persons who are not inhabitants of the commonwealth, shall be exempt from the taxes imposed by this act.

If an inhabitant of this commonwealth receives income from one or more executors, administrators or trustees, none of whom is an inhabitant of this commonwealth or has derived his appointment from a court of this commonwealth, such income shall be subject to the taxes assessed by this act, according to the nature of the income received by the executors, administrators or trustees.

An executor, administrator, or trustee may, at the request of any beneficiary, claim the benefit of the exemptions provided by sections four and five of this act for each person to whom the income from the trust is payable, or for whose benefit it is accumulated, and an inhabitant of this commonwealth receiving income from one or more executors, administrators or trustees, none of whom is an inhabitant of this commonwealth or has derived his appointment from a court of this commonwealth, may also claim the benefit of such exemptions; *provided, however*, that no such exemptions shall be allowed unless the tax commissioner is satisfied by an affidavit from the beneficiary who claims exemptions, or for whose benefit the same are claimed, or otherwise, that such beneficiary is not allowed in all trusts or estates under which he may be a beneficiary, and on account of all income on which he is liable to taxation under this act, more than the total amount of exemptions to which he is entitled under said sections four and five respectively.

Corporations authorized under the laws of this commonwealth to act as trustee or in any other fiduciary capacity shall, with respect to the income received by them in that capacity, be subject to the provisions of this act in the same manner and under the same conditions as individual inhabitants of this commonwealth acting in similar capacities, except that no such corporation shall be taxed on account of any property the income of which would be taxable under section two hereof if received by an individual inhabitant, or on account of the income derived from such property, if such property is held by such corporation as mortgagee or pledgee to secure the payment of bonds, notes or other evidences of indebtedness the interest on which is taxable under section two of this act to such individual inhabitants of the commonwealth as receive it, or the principal of which is exempt from taxation under laws other than this act.

The provisions of this act with reference to the taxation of income received by trustees shall, so far as apt, apply to the income received by guardians, conservators, trustees in bankruptcy, receivers and assignees for the benefit of creditors. Income accumulated in trust for the benefit of unborn or unascertained persons or persons with contingent interests shall be taxed as if accumulated for the benefit of inhabitants of this commonwealth.

For the purpose of facilitating the settlement and distribution of estates held by executors, administrators, trustees, guardians, conservators, trustees in bankruptcy, receivers and assignees for the benefit of creditors, the tax commissioner, with the approval of the attorney-general may on behalf of the commonwealth agree upon the amount of taxes at any time due or to become due from such estates under the provisions of this act, and payment in accordance with such agreement shall be full satisfaction of the taxes to which the agreement relates.

#### PARTNERSHIPS.

SECTION 10. Profits or income, of the classes hereinbefore made taxable, of partnerships of which any member is an inhabitant of this commonwealth and which have a usual place of business in this commonwealth, shall be subject to the taxes assessed by this act. If any of the members of the partnership are not inhabitants of this commonwealth, only so much of the income thereof as is proportionate to the aggregate interest of the partners who are inhabitants of this commonwealth in the profits of the partnership shall be taxed. The tax shall be assessed on such a partnership by the name under which it does business, and the partners shall not be taxed with respect to the income derived



by them from such a partnership. A partnership may, except as hereinafter provided, in computing the amount of income with respect to which it is taxable, deduct at the request of any partner the whole or any part of the amount of any exemption to which such partner may be entitled under the provisions of sections four and five of this act; *provided, however*, that no such exemption shall be allowed unless the tax commissioner is satisfied by an affidavit from the partner for whose benefit an exemption is claimed, or otherwise, that such partner is not allowed, in all partnerships in which he may be a partner, and on account of all income on which he is liable to taxation under this act, more than the total amount of exemptions to which he is entitled under said sections four and five of this act. Each amount so deducted shall be set forth in the return of such partnership, and the partner requesting the same shall be allowed no further exemption on account of the amount so deducted by the partnership.

An inhabitant of this commonwealth who is a member of a partnership having no usual place of business in this commonwealth, who receives income from such partnership derived from such a source that it would be taxable if received directly by such partner, shall as to such income be subject to the taxes imposed by this act.

The provisions of this act in respect to the filing of returns, and the assessment, abatement and collection of taxes, and to notices concerning the same, shall apply to partnerships subject to taxation hereunder.

This section shall not apply to partnerships, associations or trusts, the beneficial interest in which is represented by transferable shares, and nothing in this section shall affect other provisions of this act so far as the same relate to such partnerships, associations or trusts, the beneficial interest in which is represented by transferable shares.

#### EXEMPTION OF PROPERTY THE INCOME OF WHICH IS TAXED.

SECTION II. After the year nineteen hundred and sixteen, income which is taxable under the provisions of section five of this act, and, except as provided in section twenty-one, property, whether held by an executor, administrator, trustee or otherwise, the income of which, if any, is taxed or would be taxable under the provisions of section two of this act if received by an inhabitant of this commonwealth, shall be exempt from taxation under the provisions of chapter four hundred and ninety of the acts of the year nineteen hundred and nine and acts in amendment thereof and in addition thereto; *provided, however*, that in determining the amount of any tax upon a corporate franchise under the provisions of Part III of said chapter four hundred and ninety, the value of securities the income of which, if any, is taxed or would be taxable under the provisions of this act if owned by a natural person, shall not be included in the deduction, authorized by section forty-one of said part of said chapter, of securities which, if owned by a natural person resident in this commonwealth, would not be liable to taxation, but, for the purposes of section forty-three of said part of said chapter, shall be included among securities which, if owned by a natural person resident in this commonwealth, would be liable to taxation. This act shall not be construed to impose a tax upon any corporation or person in respect to income derived from property exempted from taxation by provisions of law existing prior to the passage of this act, nor shall anything in this act exempt from taxation, under the provisions of said chapter four hundred and ninety, real estate and tangible personal property.

Except as provided in section nine, the income received by corporations shall not be taxable under the provisions of this act. Every corporation

liable to taxation under said section nine shall make the returns required by this act, and shall be subject to the penalties therein provided.

#### RETURNS.

SECTION 12. Every individual inhabitant of the commonwealth, including every partnership, association or trust, whose annual income from all sources exceeds two thousand dollars shall annually make a return of his entire income, except income derived (a) from real estate, (b) from dividends exempt from taxation under section two of this act, (c) from interest upon bonds or other obligations of the United States, (d) from interest upon such bonds, notes and certificates of indebtedness of the commonwealth and political subdivisions thereof as are exempt from taxation under the provisions of clause fifteen of section five of Part I of chapter four hundred and ninety of the acts of the year nineteen hundred and nine, and acts in amendment thereof and in addition thereto, (e) from loans secured exclusively by mortgages of real estate, taxable as real estate, situated within the commonwealth to an amount not exceeding the assessed value of the mortgaged real estate, and (f) from wages or salaries received from the United States. Every other individual inhabitant, including every partnership, association or trust, who receives income taxable under section two or subdivision (a) or (c) of section five of this act shall make an annual return of such taxable income.

Every executor, administrator, trustee, guardian, conservator, trustee in bankruptcy, assignee for the benefit of creditors and receiver, other than a receiver of a corporation organized under the laws of the commonwealth, and every other person receiving income taxable under this act shall make an annual return of his taxable income as herein provided.

The aforesaid return shall be under oath, and shall be filed with the income tax assessor for the district in which the taxpayer resides or has his principal place of business or, at the option of the taxpayer, may be filed with the tax commissioner, and shall be made in such form as the tax commissioner shall from time to time prescribe and shall contain such further information as the tax commissioner may deem pertinent. The return shall be made on or before the first day of March in each year, and shall relate to the income received during the calendar year ending on the preceding thirty-first day of December.

The return required by this section shall be filed by every person who is at any time between the first day of January and the thirtieth day of June in any year an inhabitant of the commonwealth, if such person has in the preceding year received income taxable hereunder: *provided*, that the return relating to income taxable under the provisions of this act, and received by any person who shall have deceased without having made a return relating to such income, shall be made by his executor or administrator; and *provided*, that in the case of any such person who has become an inhabitant of the commonwealth after the first day of February in any year, such return shall be due and shall be filed ninety days after he becomes such an inhabitant. Every person who is an inhabitant of the commonwealth at any time between the first day of January and the thirtieth day of June, both inclusive, in any year, shall be subject to the taxes imposed by this act.

The tax commissioner shall cause to be prepared blanks for the said returns, and shall cause them to be distributed throughout the commonwealth; but no person shall be excused from making the return by failure of the tax commissioner to send or give one of the blanks to him.

The tax commissioner shall give reasonable notice of the requirement of this section, in the manner prescribed by section forty-one of Part I of chapter

four hundred and ninety of the acts of the year nineteen hundred and nine, not later than the fifteenth day of January in each year, in every city and town in the commonwealth.

If the tax commissioner shall, from information derived from the return or otherwise, be of opinion that any person whose income is taxable under the provisions of this act may have failed to file a return, or to include in a return filed, either intentionally or through error, all the sources of his taxable income, he may require from such person a return or a supplementary return under oath, in such form in each individual instance as the commissioner shall prescribe, of all the sources from which the taxpayer received any income, whether or not taxable under the provisions of this act, in the year for which the return was made. If from a supplementary return or otherwise the commissioner finds that any sources of taxable income have been omitted from the original return, he may require the amount of income from each source of taxable income so omitted to be disclosed to him under oath of the person liable for the tax, and added to the original return. Such supplementary return and the correction of the original return shall not relieve the person making the same from any of the penalties to which he may be liable under any provision of this act. The tax commissioner may proceed under the provisions of section fourteen of this act, whether or not he requires a return or a supplementary return under this section.

#### PENALTIES.

SECTION 13. If any person required to file a return under the provisions of this act fails to file the return within the time prescribed by such provisions, there shall be added to, and become a part of the tax, as an additional tax, the sum of five dollars for every day during which such person is in default; *provided, however*, that the tax commissioner may, in his discretion, abate any such additional tax in whole or in part.

If any person fails to file a return required under the provisions of this act on or before the first day of May of any year, any justice of the supreme judicial court or of the superior court, upon petition of the tax commissioner or of the income tax assessor for the district in which such person is required to file the return, or of any ten taxable inhabitants of the commonwealth, shall issue a writ of mandamus requiring such person to file the return. The order of notice upon the petition shall be returnable not later than ten days after the filing of the petition. The petition shall be heard and determined on the return day or on such day thereafter as the court shall fix, having regard to the speediest possible determination of the cause consistent with the rights of the parties. The judgment shall include costs in favor of the prevailing party. All writs and processes may be issued from the clerk's office in any county, and, except as aforesaid, shall be returnable as the court shall order.

If any person files a fraudulent return, or if any person who has failed to file a return, or has filed an incorrect or insufficient return, and has been notified by the tax commissioner of his delinquency, without reasonable excuse fails to file a return within twenty days after receiving such notice, such person shall be punished by a fine of not less than one hundred dollars nor more than ten thousand dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment, and shall forfeit his right to hold public office anywhere within the commonwealth for such period, not exceeding five years, as the court may determine.

In the case of a partnership of which one or more members are inhabitants of this commonwealth and having a usual place of business in this common-

wealth, the penalties imposed by this act may be inflicted upon any member of the partnership who is an inhabitant of this commonwealth and who has any active part in the management of the affairs of the partnership, and if there is no such member, upon the person or persons in charge of its affairs within this commonwealth. In the case of a partnership, association or trust, the beneficial interests in which are represented by transferable shares, the penalties imposed by this act for failure to file a return may be inflicted upon the trustees, managers or officers whose duty it was to make the return.

The penalties provided by this section shall apply to individuals and corporations acting in any fiduciary capacity. In the case of a corporation, the penalty may be imposed on the corporation, on the officers whose duty it was to make the return, or on both.

#### ASSESSMENT AND ADMINISTRATION.

**SECTION 14.** The tax commissioner shall determine from the returns required by this act, or in any other manner, the income of every person taxable under this act, and shall assess thereon the tax hereby provided; but he shall not determine the income of a person who has filed a return in accordance with section twelve, within the time prescribed by law, to be in excess of that disclosed by such return, without notifying such person and giving him an opportunity to explain the apparent incorrectness of his return.

For the purpose of verifying any return made pursuant to this act the tax commissioner may, within two years after the date when such return was due, if he has reason to believe the return to be fraudulent or incorrect, direct by special authorization a deputy or other agent to verify the return; and for the purpose of such verification the books and papers of the person shall be open to the examining officer, or shall be produced for the purpose upon a summons, which the tax commissioner, or the examining officer, is hereby authorized to issue. The person making the return may be examined by such officer under oath.

If no return, or a fraudulent, incorrect or insufficient return, has been filed by a person required to file a return under the provisions of this act, and the person so in default refuses or neglects, after notice, to file a proper return, the tax commissioner shall determine the income of such person, taxable under this act, according to his best information and belief, and shall assess the same at double the amount so determined. In the case of sickness, absence or other disability of a person liable to the tax, the tax commissioner may allow such further time for filing the return as he may deem necessary.

If the tax commissioner discovers from the verification of a return filed under this act, or otherwise, that the income of any person subject to taxation under this act, or any portion thereof, has not been assessed, he may, at any time within two years after the first day of September of the year in which such assessment should have been made, assess the same, first giving notice to the person so to be assessed of his intention, and such person shall thereupon have an opportunity within ten days after such notification to confer with the tax commissioner in person or by counsel or other representative as to the proposed assessment. After the expiration of ten days from such notification the tax commissioner shall assess the income of such person subject to taxation, or any portion thereof, which he believes has not theretofore been assessed, and he shall thereupon give notice to the person so assessed under the provisions of section fifteen of this act, and the tax shall be payable fourteen days after the

date of such notice. The provisions of this act in respect to the abatement and collection of taxes shall apply to a tax so assessed.

The tax commissioner may from time to time make such rules and regulations, not inconsistent with the provisions of this act, as he may deem necessary for the purpose of carrying out its provisions.

SECTION 15. The tax commissioner shall, on or before the first day of September in each year, give notice to every person taxable under the provisions of this act of the amount of the tax payable by him, and of the date upon which the tax is due and payable, which date shall be the fifteenth day of October. The notice shall be a written or printed notice, and shall be mailed, postage prepaid, addressed to the person assessed at his place of residence or business, or at the address given in his return, or otherwise delivered at such place of residence or business or at such address. All taxes assessed hereunder may be paid at the office of the tax commissioner in Boston or at the office of the income tax assessor for the district in which the taxpayer resides or has his principal place of business, at the option of the taxpayer, and the notice shall state the places at which the tax may be paid.

Failure to receive the notice provided for by this section shall not affect the validity of the tax.

SECTION 16. Returns shall be open to the inspection of the tax commissioner and of his deputies, assistants and clerks, when acting under his authority, and of the income tax assessors and of their deputies, assistants and clerks, when acting under their authority. The disclosure by the tax commissioner, or by any deputy, assistant, clerk or assessor, or other employee of the commonwealth, or of any city or town therein, to any person of any information whatever contained in or set forth by any such return, other than the name and address of the person filing it, except in proceedings to collect the tax or by proper judicial order, shall be punishable by a fine not exceeding one thousand dollars, or by imprisonment for a period not exceeding six months, or by both such fine and imprisonment, and by disqualification from holding office for such period, not exceeding three years, as the court may determine. Said returns shall be preserved for two years, and thereafter until the tax commissioner orders them to be destroyed.

Lists or indexes of persons in the district who have filed returns shall be kept in the office of each income tax assessor, and shall be open to public inspection. The name of each person filing a return shall be placed on such list or index immediately on the filing of the return.

SECTION 17. For the purpose of carrying out the provisions of this act, the tax commissioner shall divide the commonwealth into income tax districts, and he may from time to time change the limits of the districts. He shall, with the advice and consent of the governor and council, appoint, and may with their consent remove, an income tax assessor for each district, to assist him in such manner and under such rules and regulations as he may from time to time prescribe in the performance of his duties hereunder.

An income tax assessor need not be a resident of the district in which he is to serve: *provided*, that, so far as practicable, preference shall be given to residents of the respective districts. The commissioner may transfer any income tax assessor from one district to another, and may assign any such assessor to temporary or extraordinary service in any district.

The tax commissioner may also appoint such deputy income tax assessors, who may be members of boards of assessors of cities or towns, and such clerical and other assistants in the several districts, as may, in the opinion of the governor and council, be necessary for the proper performance of his duties.

The salaries of the income tax assessors and their deputies shall be fixed by the tax commissioner with the approval of the governor and council, and the income tax assessors, their deputies, assistants and clerks, shall be allowed such reasonable and necessary traveling and other expenses incurred in the performance of their duties as may be approved by the tax commissioner and by the governor and council.

All taxes received by the income tax assessors shall be accounted for and turned over to the tax commissioner as often as once in each week, and the commissioner shall transmit to the treasurer and receiver general as often as once in each month all taxes received by him under the provisions of this act.

The tax commissioner shall require the income tax assessors to give bonds in such form, with such sureties and in such amounts as may be approved by the governor and council, and all premiums upon such bonds shall be paid by the tax commissioner out of moneys appropriated for the purposes of this act.

The tax commissioner may also, with the advice and consent of the governor and council, appoint, and with their consent remove, a deputy to be known as the income tax deputy, who shall receive such salary as the governor and council may approve, and who, under the direction of the tax commissioner, shall have supervision and control of the assessment and collection of the income taxes provided for by this act; and the tax commissioner shall appoint such additional clerical and other assistants to the income tax deputy and income tax assessors as the governor and council may approve.

The aforesaid income tax deputy, income tax assessors and deputy assessors shall have such duties and powers consistent with the provisions of this act as the tax commissioner shall from time to time prescribe. Their appointment shall be governed by the provisions of law relative to the appointment of the present deputies and assistants of the tax commissioner, and supervisors of assessors.

**SECTION 18.** If a tax assessed under the provisions of this act is not paid at the time when it is due, interest at the rate of six per cent per annum from that time shall be added to and become part of the tax. The tax commissioner, and the income tax assessors in their respective districts, shall have all the remedies for the collection of taxes assessed under the provisions of this act that are provided by chapter four hundred and ninety of the acts of the year nineteen hundred and nine, and acts in amendment thereof and in addition thereto, for the collection of taxes on personal estate by collectors of taxes of cities and towns, and shall be allowed charges and fees as therein provided. Any action of contract brought to recover any such tax shall be brought in the name of the commonwealth.

#### ABATEMENTS.

**SECTION 19.** Any person aggrieved by the assessment of a tax under the provisions of this act may apply to the tax commissioner for an abatement thereof at any time within three months after the date of the notice of the assessment; and if, after a hearing, the tax commissioner is satisfied that the tax is excessive in amount or that the person assessed is not subject to the tax, he shall abate the tax in whole or in part accordingly; and if the tax has

been paid, the treasurer and receiver-general shall repay to the person assessed the amount of such abatement, with interest thereon at the rate of six per cent per annum from the time when it was paid: *provided, however*, that no tax assessed upon any person liable to taxation under this act shall be abated in any event unless the person assessed shall have filed, at or before the time of bringing his petition for abatement, a return as required by section twelve of this act; and if he failed without good cause to file his return within the time prescribed by law, or filed a fraudulent return, or, having filed an incorrect or insufficient return, has failed, after notice, to file a proper return, the tax commissioner shall not abate the tax below double the amount for which the person assessed was properly taxable under the provisions of this act. The tax commissioner shall notify the petitioner by registered letter of his decision upon the petition.

Any person aggrieved by the refusal of the tax commissioner to abate, in whole or in part, under the provisions of this section, a tax assessed under the provisions of this act, may, within thirty days after receiving notice of the decision of the tax commissioner, appeal therefrom by filing a complaint with the clerk of the board of appeal provided for by section sixty-eight of Part III of chapter four hundred and ninety of the acts of the year nineteen hundred and nine. If, upon a hearing, the board of appeal finds that the person making the appeal is entitled to any abatement from the tax assessed upon him, it shall make such abatement as it sees fit.

The decision of the board of appeal shall be final and conclusive, and shall be communicated in writing to the petitioner and the tax commissioner within five days after the decision of the board.

If the tax appealed from has been paid, the treasurer and receiver-general shall repay to the petitioner the amount of any abatement and interest from the time of payment, upon presentation to him by the petitioner of the notice of the decision of the board.

SECTION 20. Any person aggrieved by the refusal of the tax commissioner to abate in whole or in part, under the provisions of the preceding section, a tax assessed under the provisions of this act may, instead of pursuing the remedy provided in the preceding section, appeal from such refusal by filing a complaint against the tax commissioner in the superior court for the county in which such person resides or has his principal place of business, within thirty days after the notice by the tax commissioner of his decision in accordance with the preceding section. An order of notice shall be issued by said court and served upon the tax commissioner within such time as the court shall direct, and the subsequent proceedings shall be conducted in accordance with the provisions of sections seventy-seven to eighty, inclusive, of Part I of chapter four hundred and ninety of the acts of the year nineteen hundred and nine, and acts in amendment thereof and in addition thereto; but if the complainant was subject to taxation under this act and did not file his return within the time prescribed by law he shall not be entitled to have any part of his tax abated by the court, unless the court finds that he had good cause for his delay, or the tax commissioner had previously so found. If an abatement is granted, the amount thereof shall be repaid to the complainant by the treasurer and receiver-general, with interest at the rate of six per cent per annum from the time when the tax was paid, and costs.

The remedies provided by sections nineteen and twenty hereof shall be exclusive, whether or not the tax is wholly illegal.

#### ADDITIONAL LOCAL TAXES.

SECTION 21. All property owned by a resident of this commonwealth on the first day of April in any year, which during the preceding calendar year had produced for such owner any income taxable under this act, shall, despite anything in this act, be subject to taxation to such owner in accordance with the provisions of chapter four hundred and ninety of the acts of the year nineteen hundred and nine, and acts in amendment thereof and in addition thereto, if such owner does not make to the tax commissioner a full return of his taxable income from such property on or before the first day of September of the year in which a return of income is required by section twelve of this act, and provided the tax so assessed is greater than the amount of the tax properly payable under sections two and fourteen of this act. Property taxable in any year under this section shall be assessed in that year between the second day of September and the tenth day of December, both inclusive. The amount of taxes assessed by the local assessors upon such property in such city or town in any year, less the amount assessed and collected by the tax commissioner as hereinafter provided, shall be entered on the tax list of the collector of such city or town, and he shall collect and pay over the same to the city or town.

Any taxpayer aggrieved by the assessment of a tax under the provisions of this section may appeal to the tax commissioner within thirty days after the receipt of the tax bill therefor, or other actual notice of the assessment. In case of an adverse determination by the tax commissioner, the taxpayer may appeal to the board of appeal as provided in section nineteen, or to the superior court as provided in section twenty; and if the taxpayer shall establish that the income of the property was duly returned or that it was not taxable or that there was reasonable excuse for not making the return, the tax shall be abated, and if it has previously been paid, the amount abated shall be repaid by the city or town to the taxpayer, with interest from the time of such payment. At any time prior to the collection by the city or town of the tax provided for by this section, the tax commissioner may assess and collect the tax provided for by this act, on the income of the property, subject to the limitation of time provided by section fourteen. Upon the collection of the tax, the tax commissioner shall at once notify the tax collector of the city or town in which the taxpayer resides, and the tax collected by him shall be deducted from the tax assessed in that city or town; and if the tax assessed in such city or town has been collected, the amount so deducted shall be repaid by the city or town to the taxpayer. If a tax collected by a city or town under the provisions of this section is afterward abated, the amount of the abatement, together with the amount of any interest paid by the taxpayer on that amount, shall be paid by the city or town to the taxpayer.

Upon discovery of property the income of which for the preceding calendar year, taxable under this act, has not been returned on or before the first day of September of the year in which the return is required, the tax commissioner shall forthwith notify the assessors of the city or town in which the property is taxable, unless there is within his knowledge a reasonable excuse for the failure of the taxpayer to file the return. Upon making any assessment under the provisions of this section, the assessors shall forthwith notify the tax commissioner.

SECTION 22. Any taxpayer who in the year nineteen hundred and seventeen fails to bring in a list of taxable personal estate, as provided in sections forty-one to forty-nine, inclusive, of Part I of chapter four hundred and ninety of the acts of the year nineteen hundred and nine, and acts in amendment thereof



and in addition thereto, shall be assessed in that year for an amount of personal estate not less than that for which he was assessed and taxed in the year nineteen hundred and sixteen. The tax commissioner shall have authority to assess any taxpayer in any city or town for any amount of tax for which said taxpayer may be liable under the provisions of this section; and any assessor who shall violate the provisions of this section shall be liable to the penalties imposed by section thirty-nine of Part I of chapter four hundred and ninety of the acts of the year nineteen hundred and nine, and acts in amendment thereof and in addition thereto.

#### DISTRIBUTION.

SECTION 23. On or before the fifteenth day of November in the year nineteen hundred and seventeen the treasurer and receiver-general shall pay to each city or town an amount equal to the difference between the amount of the tax levied upon personal property in such city or town in the year nineteen hundred and fifteen and the amount, computed by the tax commissioner, that would be produced by a tax upon the personal property actually assessed in such city or town for the year nineteen hundred and seventeen at the same rate of taxation as prevailed therein in the year nineteen hundred and fifteen. If the amount of taxes collected from incomes shall exceed the sum necessary to make such payments, the balance shall be distributed among the several cities and towns in proportion to the amount of the state tax imposed upon each of them in the year nineteen hundred and seventeen; *provided*, that of the aforesaid excess the commonwealth shall retain a sum sufficient to reimburse it for the expenses incurred under this act during the year nineteen hundred and seventeen, and abated taxes repaid hereunder during said year. In years subsequent to nineteen hundred and seventeen, the taxes collected under this act shall be distributed as the general court may determine.

SECTION 24. On or before the first day of August in each year the tax commissioner shall, upon the basis of the information then in his possession, notify the assessors of each city and town of the amount of income tax such city or town is to receive under this act. The said assessors, in determining the rate of taxation to be levied upon taxable property for the year, shall include in the estimated receipts lawfully applicable to the payment of expenditures the aforesaid amount of income tax.

#### INFORMATION AT THE SOURCE.

SECTION 25. Every individual, partnership, association, trust or corporation, being an inhabitant of the commonwealth or having a place of business therein, shall file annually with the tax commissioner a return in such form as the tax commissioner shall from time to time prescribe, giving the names and addresses of all regular employees residing in this commonwealth to whom the said individual, partnership, association, trust or corporation has paid wages, salary or other compensation in excess of the sum of eighteen hundred dollars during the previous calendar year.

Every corporation and every partnership, association or trust the beneficial interest in which is represented by transferable shares, doing business in the commonwealth, shall, unless the dividends paid upon its shares are exempt from taxation under section two of this act, on or before the first day of March in the year nineteen hundred and seventeen and in each year thereafter, file with the tax commissioner a list of the names and addresses of its shareholders

as of record on the thirty-first day of December of the previous year, or, in its discretion, of such shareholders as are residents of the commonwealth; *provided, however*, that the tax commissioner in his discretion may accept in lieu of the above list from any corporation, partnership, association or trust required to make a return hereunder a list of its shareholders as of record on any other date satisfactory to him. Every such corporation, partnership, association or trust shall also report to the tax commissioner on or before the first day of March in each year the names and addresses of residents of the commonwealth to whom it has paid interest during the preceding calendar year upon its bonds, notes, or other evidences of indebtedness, and to whom it has paid any annuity or annuities, except, however, interest coupons payable to bearer, and income exempt from taxation under this act. In any individual case, any such corporation, partnership, association or trust shall, upon request of the tax commissioner, state the respective amounts of dividends, interest and annuities so paid by it to any person during any calendar year.

The returns provided by this section shall be made on or before the first day of March in each year; but the tax commissioner may, in his discretion, authorize such returns to be made at any other date and in connection with any other reports or returns that the said individuals, partnerships, associations, trusts and corporations may be required to file with him.

Any individual, partnership, association, trust or corporation that without reasonable excuse fails to comply with the provisions of this section shall be punished by a fine of not less than twenty-five nor more than five hundred dollars for each offence.

**SECTION 26.** The treasurer of every city, town and county, and the auditor of the commonwealth shall, in each year not later than the tenth day of April, in the form prescribed by the tax commissioner, furnish said commissioner with the names and addresses of all employees of said cities, towns, counties and of the commonwealth respectively who received during the preceding calendar year as salary, wages, or otherwise amounts exceeding eighteen hundred dollars in each case, together with the amount received by each.

#### GENERAL PROVISIONS.

**SECTION 27.** If any part, subdivision or section of this act shall be declared unconstitutional, the validity of the remaining parts of this act shall not be affected thereby.

**SECTION 28.** No caption to any section or set of sections shall in any way control or affect the interpretation of this act or of any part hereof.

**SECTION 29.** After the passage of this act or the fifteenth day of May in the year nineteen hundred and sixteen, whichever last occurs, no bonds shall be registered under chapter seven hundred and sixty-one of the acts of the year nineteen hundred and fourteen, and acts in amendment thereof and in addition thereto. The tax imposed by this act shall not be assessed upon the income from any bond registered under any of said acts until the term for which such bond was exempted by registration has expired.

**SECTION 30.** This act shall take effect upon its passage.











